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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,960	01/19/2001	Mitsukazu Momosaki	ALPHA 3.0-001	9159

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WEINGRAM & ASSOCIATES, P.C.  
P.O. BOX 927  
197 W. Spring Valley Avenue  
Maywood, NJ 07607

EXAMINER

PRONE, JASON D

ART UNIT

PAPER NUMBER

3724

22

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

**Office Action Summary**

Application No.

09/765,960

Applicant(s)

MOMOSAKI, MITSUKAZU

Examiner

Jason Prone

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 May 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 8 recites the limitation "the outer portions" on line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 8, 9, 11, 12, 14, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohland in view of Sylvester. Bohland discloses a cutter body (19) including upper (22) and lower handles (23) having a pivot (21), that the lower handle has an upper blade end (Fig. 1) extending beyond the pivot (Fig. 1) and having a first blade edge secured thereto (12), that the upper handle has a lower blade end (Fig. 1) extending beyond the pivot and opposing the upper blade end (Fig. 1), that the lower blade end has a second blade edge secured thereto (10), that the handles and blade ends are pivotable about the pivot to provide opposing movement between an open an

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closed position (21), that the first and second blade edges are disposed in mutually opposing positions (Fig. 2) and the space between the first and second blade edges varies along the length when the cutting edges are in the closed position for cutting (Fig. 2), that the opposing blade edges are disposed perpendicular to the surface of the work piece (29), that the first and second blade edges each have two opposing outer portions and an opposing inner portion (Fig. 2) and the space between at one of the two opposing outer portions is less than the space between the other of the opposing outer portions (Fig. 2), and that the first and second blade edges each contain a portion parallel to the axis of the pivot (Fig. 1) but fails to disclose that the first and second blade edges are convex, that the outer portions of the opposing blade ends are curved, a return spring connected between the upper and lower handles, and that one of the opposing blade edges has an angled inner surface providing a sharp edge. Sylvester teaches first and second blade edges that are convex ( $a^4$ ), that the outer portions of the opposing blade ends are curved (Fig. 2), a return spring connected between the upper and lower handles (c), and that one of the opposing blade edges has an angled inner surface providing a sharp edge ( $a^7$ ). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Bohland with convex blade edges, curved blade ends, a return spring, and a sharp edge, as taught by Sylvester, to allow for cutting curves.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohland in view of Sylvester as applied to claims 6, 8, 9, 12, 14, 15, and 17 above, and further in view of Atkeson. Bohland and Sylvester disclose the invention but fail to disclose that

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the first and second blade edges each have outer portion and an inner portion and that the distance between the opposing outer portions is less than the distance between the inner portions. Atkeson teaches first and second blade edges that each have outer portions and an inner portion and that the distance between the opposing outer portions is less than the distance between the inner portions (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Bohland in view of Sylvester with blade edges in which the distance between the opposing outer portions is less than the distance between the inner portions, as taught by Atkeson, to allow for a more powerful cutting surface.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohland in view of Sylvester as applied to claims 6, 8, 9, 12, 14, 15, and 17 above, and further in view of Schwartz. Bohland and Sylvester disclose the invention but fail to disclose to disclose a stop means connected between the upper and lower handles. Schwartz teaches the use of a stop means (27). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Bohland in view of Sylvester with a stop means, as taught by Schwartz, for maintaining the handles in a normally open position.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohland in view of Sylvester as applied to claims 6, 8, 9, 12, 14, 15, and 17 above, and further in view of Berg. Bohland and Sylvester disclose the invention but fail to disclose a guide secured to the lower blade end. Berg teaches of a guide (18) secured to the lower blade end (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the

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art, at the time of the invention, to have provided Bohland in view of Sylvester with a guide, as taught by Berg, to allow for a more precise cut.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bohland in view of Sylvester as applied to claims 6, 8, 9, 12, 14, 15, and 17 above, and further in view of Price. Bohland and Sylvester disclose the invention but fail to disclose that the curved first and second blade edges are concave. Price teaches curved first and second blade edges that are concave (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Bohland in view of Sylvester with concave blade edges, as taught by Price, to cut an outer curve.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 6-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hamilton, Stevens, Gerard, Randle, Fay, Capewell ('925), Capewell ('859), Falconer, Casterlin, Oesterwitz, Pagel et al., Nalpantian, Williams, VanHeuman, Roux, Speegle, Durkow, Husain, Tunningley et al., Cripe, White et al., Jansson et al., Burgholzer, Lemmens, and Mazur.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

JP  
June 11, 2003

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700